IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

**PRESENT**

**THE HON'BLE MR JUSTICE GODA RAGHURAM**

**WRIT PETITION NO : 12867 OF 1996**

Between:

T.T.D. Forest Workers' Welfare Union,

Rep. by its Organising Secretary,

K.Chakrapani Reddy s/o Elumalai Reddy,

Aged 43 years, Forest Mazdoor, TTD, Tirupati

..... PETITIONER

AND

1. T.T.Ddevasthanam, Tirupathi, rep. by its

Executive Officer.

2. Conservator of Forests, Forest Department

of TTD, Tirupathi

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Mandamus (i) declaring the action of the respondents in engaging Juniormost Mazdoors in the posts of Maistries on pick and choose method as illegal and arbitrary; (ii) directing the respondents to follow the seniority of Mazdoors in Forest Department while engaging them as Maistries on temporary basis, till the regular promotions are effected.

**For the Petitioner: Mr. K. Vasudeva Reddy, Advocate**

**For the Respondent No.1& 2: Ms. P. Sarada, Standing Counsel for TTD**

## The Court Made the Following :

:: ORDER ::

The writ petition is filed by the TTD Forest Workers' Welfare Union for a declaration that the action of the respondents in engaging Juniormost Mazdoors in the posts of Maistries is illegal and arbitrary; and for a direction to follow the seniority of Mazdoors in Forest Department while engaging them as Maistries on temporary basis, till regular promotions are effected.

The petitioner-Association claims to have a membership of over 600 Maistries working under the TTD Conservator of Forests. They also claim that these 600 Maistries have put in more than 15 years of service and the petitioner-Association had been requesting the respondents to promote them as Maistries according to the seniority and their request was under active consideration by the respondents by that time. It is also alleged that in view of long standing demands of the petitioner, the Board of the TTD by a resolution No.823 dt 25.11.1993 decided to incorporate the posts of Forest Mazdoor and Forest Maistry in the service rules and to upgrade 45 posts of Forest Mazdoors to that of Forest Maistries. The Board in the same resolution, it is alleged, passed a resolution that the method of recruitment to fill up the posts of Forest Maistry is by way of promotion from amongst the Mazdoors in the Forest Department who have completed three years of service and passed 8$^{th}$ class. Obviously, as many of the 600 members of the petitioner-association have not passed 8$^{th}$ class, which is the recommended qualification for promotion to the post of Maistry, the petitioner calls to aid Rule 6 of the TTD Employees Service Rules, 989, which is to the effect that *whenever minimum Technical or Non-Technical qualifications are prescribed for the first time in the rules, for promotion to the post of immediately next higher category of 4service in which a person is serving as on the date of coming into force of the rules, he/she shall not be required to possess the qualification newly prescribed there for the purpose of promotion to the immediate next higher post*. On the basis of Rule 16, the petitioner contends, the Forest

Mazdoors ought to have been considered for promotion to the post of Forest Maistries without insisting on passing of 8th class. This is the factual matrix in which the writ petition is filed and the relief is sought.

The 1st respondent has filed a counter affidavit. The claim of the petitioner about 600 Mazdoors working for over 5 years, is denied. The counter states that there were no posts of Forest Maistries. Only Forest Mazdoors were being appointed on casual basis and Forest Mazdoor was not a part of the cadre of the TTD service. It is stated by the answering respondent that the TTD Board in its resolution dt 25.11.93 resolved to incorporate the method of recruitment, qualifications etc., to the post of Forest Maistries and to include Forest Maistries in the constitution of the TTD service in its Forest Department and to recommend to the Government for such inclusion in the constitution of the TTD Service. It was also resolved to upgrade 45 posts of Forest Mazdoors to Forest Maistries and to recommend to the Government for according approval for this aspect also. It is further stated by the learned Standing Counsel that the Government in GO Ms.No. 345 Revenue Department, dt 29.4.1997 issued orders including the posts of Forest Maistries and Forest Mazdoors in the Forest Department of the TTD and approved the method of recruitment to these posts. Accordingly, contends the learned Standing Counsel, the post of Maistry is to be filled up by promotion from the post of Forest Mazdoor so however that the Mazdoors must have passed 8th class and must have put in a service of 3 years in the feeder category, whereas the post of Forest Maistry is to be filled up by direct recruitment by persons having the specified qualifications. The application of Rule 16 is also contested.

The above is a development subsequent to the filing of the counter affidavit by the 1st respondent.

Rule 6 of the TTD Employees Service Rules, 1989 does not apply to exempt the possession of qualifications which have been prescribed along with the creation of the post of Maistry for the first time in the TTD Service. This rule applies only to a situation where a post is already in existence and the post is to be filled up *inter alia* by promotion or recruitment by transfer from lower or another service in the TTD and where a new technical or non-technical qualification is prescribed for such a post.

In the case on hand the posts of Forest Mazdoors and Forest Maistries have been created for the first time and included in the TTD service by the approval in GO Ms No. 345, Revenue Department, dt 29.4.97. In the circumstances the service and

educational qualifications prescribed for promotion of Forest Mazdoors to the post of Forest Maistries will have to be fulfilled by those Mazdoors seeking such promotion.

As the post of Forest Maistries has now been created in the Forest Department of the TTD Service, the case of the members of the petitioner-union for promotion as Forest Maistries shall have to be considered in accordance with the relevant recruitment rules for the post of Forest Maistries. The writ petition is, in the circumstances, disposed of directing the respondents to consider the case of the eligible Forest Mazdoors to the post of Forest Maistries strictly in accordance with the statutory Rules. In case of any temporary appointments to the post of Forest Maistries, some rational principle for consideration of eligible Forest Mazdoors will have to be followed. No costs.

Date: 30.09.2004 ----------

Pvsn Justice G.Raghuram

Copy to

1. The Executive Officer,

T.T.Ddevasthanam, Tirupathi,

2. Conservator of Forests, Forest Department

of TTD, Tirupathi

3. 2 CD Copies.